



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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TIMOTHY W. BOYER
Interim Executive Director

July 3, 2003

TO: INTERESTED PARTIES

Enclosed is a copy of Current Legal Digest (CLD) number 2003-4 for your information and review. The annotations included in this CLD are new proposed annotations (underlined) and/or suggested revisions of existing annotations (indicated by ~~strikeout~~ and underline). After review, please submit any questions, comments, or suggestions for changes *in writing* by **Monday, August 4, 2003**, and mail or fax them to:

Board of Equalization
Assessment Policy and Standards Division
ATTN: Annotation Coordinator
P. O Box 942879
Sacramento, CA 94279-0064

Please note, the new annotations and/or suggested revisions of existing annotations contained in the attached CLD are *drafts* and may not accurately reflect the Board's official position on certain issues nor reflect the language that will be used in the final annotation, if formally adopted.

CLDs are circulated for 30 days, at which time any questions are addressed and/or suggested modifications taken into consideration. After approval of the final version by the Board's Legal Department, they will be printed in Volume 3 of the Property Taxes Law Guide. At that time, the CLD becomes obsolete.

If you would like any copies of the backup correspondence, please contact Glenna Schultz at (916) 324-5836 or glenna.schultz@boe.ca.gov.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG/grs
Enclosure

PROPERTY AND SPECIAL TAXES DEPARTMENT

PROPERTY TAXES CURRENT LEGAL DIGEST No. 2003-4

July 3, 2003

220.0000 CHANGE IN OWNERSHIP

220.0364 **Life Estate.** The termination of a retained life estate (that was previously excluded from change in ownership) by execution of a grant deed and a personal lifetime right of occupancy agreement is a change in ownership. Property Tax Rule 462.060 clearly provides that a subsequent transfer of a retained life estate by the transferor to a third party is a change in ownership. While the right to occupy property for the life may be a lesser estate, the transfer and/or termination of the life time right to the income results in a change in ownership. C 1/3/2003.

610.0000 NEWLY CONSTRUCTED PROPERTY

610.0036 **Fire Suppression Systems.** The exclusion contained in Revenue and Taxation Code section 74 is not limited to fire suppression systems and equipment that protect structures only. As long as fire suppression systems and equipment that protect persons, fixtures, and personal property are installed in an existing building and meet the definitions contained in subdivision (c) of section 74, those systems should be excluded from new construction. C 1/29/2003.

625.0000 PARENT-CHILD TRANSFERS

~~625.0195 **Step Transaction.** Two brothers held title to real property as coowners, and each transferred interests in the property to the two children of one of the brothers. The four individuals then transferred their real property interests to a family limited partnership and, in return, acquired partnership interests proportional to their interests in the property. The application of the step transaction doctrine may be appropriate under these circumstances if the evidence establishes that one of the three tests is satisfied. The statutory exception to application of the step transaction doctrine that is set forth in section 2 of Chapter 48 of the Statutes of 1987 does not apply because the step preceding the transfer of the interests to the partnership included a transfer from an uncle who is not an eligible transferor to a niece and nephew who are not eligible transferees. As a result of applying the step transaction doctrine, 100 percent of the real property interests transferred could undergo a change in ownership. C 3/28/2001.~~

A taxpayer requested that this annotation be withdrawn. Board staff is of the opinion that the letter correctly interprets the relevant law; however, the annotation is being withdrawn because the question of intent is a question of fact for determination of the assessor.

Please note that the new proposed annotations contained in this CLD are drafts and may not accurately reflect the text of the final annotation

850.0000 VALUE

850.0029 **Leasehold Interest.** The assignment of a leasehold interest in real property with a remaining term of 38½ years is a change in ownership pursuant to Revenue and Taxation Code section 61, subdivision (c). As a result, the assignee of a leasehold interest with a term of more than 35 years is considered the owner of the property for change in ownership purposes, and the interest is assessable to the assignee. Upon a change in ownership, Revenue and Taxation Code section 110 and Property Tax Rule 2 require the real property interest transferred to be reassessed at full cash value which is defined as its unencumbered, unrestricted fee simple value. The value of the leased-fee interest encumbered by below-market rents is not considered. C 1/13/2003.